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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3563 OF 2006

Ganesh Maruti Kathewade .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.Sandeep Deshmukh for applicant
Mr.S.S.Pednekar, A.P.P. for State.

WITH

CRIMINAL APPLICATION NO.3596 OF 2006

Navnath Tukaram Bodre .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.S.H.Hardikar for applicant
Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 10th October 2006

P.C.

. These two applications are by accused Nos. 2 and 4 in C.R.No.116 of 2006 which is registered with Chakan Police Station for

offences punishable under section 302, 201 read with 34 I.P.C. A joint application was preferred by them along with accused No.1 which has been rejected by the trial court.

2. After perusing the application and the order of trial court it was not discernible as to whether applicants had a role in the crime which is on par with Accused No.1. It appears that accused No.1 was in love with one girl Snehal. He suspected the deceased Rinku of having an evil eye towards this girl. Thus on account of this essentially that the incident took place in the middle of night. It is alleged that from the present applicants blood stained clothes have been recovered. Charge is also under section 201. Further, the witnesses and the applicants are residing in the same village. In such circumstances and considering sensitive nature of crime, prosecution prayed for rejection of the application.

3. After having perused the application and the annexures thereto including the statement of the brother of the deceased, it is apparent that there is no recovery of any weapon save and except above mentioned blood stained clothes. The joint application was rejected by the trial court under an erroneous assumption that even the present applicants have committed acts attributed to original accused No.1. There is no material to indicate that the applicants would not be available at the trial, more so, with stringent conditions being imposed.

4. Hence, following order:-

i) The applicants (1) Ganesh Maruti Kathewade and (2) Navnath Tukaram Bodre arrested in connection with C.R.No.116 of 2006 registered with Chakan Police Station shall be enlarged in the sum of Rs.10,000/- each with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the concerned investigating officer of Chakan Police Station once a fortnight till conclusion of trial. Applicants shall not change their residence mentioned in the cause title, conclusion of the trial.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to

condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)